

REMARKS

A. Reference Submitted in Previous Response

In a previous response the Applicants submitted another copy of an article entitled “An Indoor Wireless System for Personalized Shopping Assistant” as requested by the Examiner. The Applicants respectfully request that the Examiner initial the original PTO-1449 that lists this article indicating the Examiner has fully considered this reference.

B. CLAIM REJECTIONS – 35 U.S.C. §102

Claims 62-83 and 102-108 were rejected under 35 U.S.C. §102(e) as being anticipated by Treyz et al., U.S. Patent No. 6,587,835 (“Treyz”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Without waiving their previous positions, or accepting those of the Examiner, to expedite the examination of the instant application the Applicants have canceled claims 62-83 and 102-108.

Accordingly, the Applicants submit that the §102(e) rejections are now moot.

C. CLAIM REJECTIONS – U.S.C. §103

- (i) **Claims 1, 5, 6, 11-20, 28-39, 41, 42, 45-61, 84, 87, 89-92, and 96-101**

Claims 1, 5, 6, 11-20, 28-39, 41, 42, 45-61, 84, 87, 89-92, and 96-101 were rejected under 35 U.S.C. §103(a) as being unpatentable over Treyz in view of Ding et al., U.S. Patent Publication No. 2002/059111 (“Ding”) and in

further view of Cupps et al., U.S. Patent No. 5,991,739 ("Cupps"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Initially, Applicants note that to expedite examination of the instant application the Applicants have canceled claims 5, 14-39, 45, 55-59, 61, 84, 87, 89-92 and 96-101 without waiving their previous positions, or accepting those of the Examiner.

Each of the claims of the present invention are directed at a wireless apparatus for processing customer orders, where the apparatus receives order information when a customer is within a predetermined distance of a vendor facility broadcasting a wireless signal, said predetermined distance being such as to assure that an order is fulfilled before the customer arrives at the facility. In the Office Action, the Examiner appears to rely upon Treyz for a disclosure of these claimed features.

However, Treyz fails to disclose or suggest such features.

Instead, Treyz appears to disclose a system that includes a "hand held" device (12) that places an order without reference to the reception of such a signal within a predetermined distance of a vendor's facility to assure that the order is fulfilled before a customer arrives.

In the Office Action (page 16) the Examiner appears to take the position that Treyz' "notifications from merchants...that the user's laundry is ready to be picked up or the user's film has been developed" are disclosures of the claimed features of --reception of such a signal within a predetermined

distance of a vendor's facility to assure that the order is fulfilled before a customer arrives--. Applicants disagree. The notifications in Treyz are sent without regard to whether a customer is within a predetermined distance from a vendor facility.

Thus, it is respectfully submitted that the claims are patentable over Treyz.

Further, neither Cupps nor Ding make up for the deficiencies of Treyz.

For this reason, Applicants respectfully submit that claims 1, 6, 11-14, 41 and 42 are not rendered obvious by the combination of Treyz in view of Cupps and Ding.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 6, 11-14, 41 and 42.

(ii.) Claim 10

Claim 10 was rejected under U.S.C. §103(a) as being unpatentable over Treyz in view of Ding and Cupps, and in further view of Tracy et al., U.S. Patent No. 5,979,757 ("Tracy"). Applicants respectfully disagree and traverse this rejection for at least the following reasons.

Applicants note that Tracy does not overcome the noted deficiencies of Treyz in view of Ding and Cupps noted above. For this reason, Applicants respectfully submit that claim 10, which depends on independent claim 1, is not rendered obvious by the combination of Treyz in view of Ding, Cupps and Tracy.

Accordingly, Applicants respectfully request withdrawal of the pending rejection and allowance of claim 10.

(iii.) Claims 22-27, 43, 44, 93 and 94

Claims 22-27, 43, 44, 93 and 94 were rejected under 35 U.S.C. §103(a) as being unpatentable over Treyz in view of Ding, Cupps and in further view of Hall, U.S. Patent No. 6,026,375 ("Hall"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Without waiving their previous positions, or accepting those of the Examiner, to expedite the examination of the instant application the Applicants have canceled claims 22-27, 43, 44, 93 and 94.

Accordingly, the Applicants submit that the §103(a) rejections of these claims are now moot.

D. Entry of Amendment After Final

Entry of this Amendment After Final ("AAF") is solicited because the Request: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues requiring further search and/or consideration; (c) does not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By: //John E. Curtin//
John E. Curtin, Reg. No. 37,602
P.O. Box 1995
Vienna, Virginia 22183
(703) 266-3330